IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 607 OF 2007

Rajaram Kanojia ...Petitioner
V/s.
M/s.Minor Apparels ...Respondent

Mr.Rajesh Gehani for the Petitioner.
Mr.K.S. Bapat for the Respondent.

CORAM : V.M. KANADE, J.

DATED : JUNE 15, 2007

P.C. :-

1. Heard the learned Counsel for the petitioner and the learned Counsel for the respondent.

2. The petitioner is challenging the order passed by the First Labour Court, Mumbai, in Reference (IDA) No.602/2000 to the extent that it denied the petitioner the relief of reinstatement with backwages.

3. A reference has been made by the Deputy Commissioner of Labour under Section 10 sub-section (4) and Section 12 sub-section (5) read with Section 2A of the Industrial Disputes Act. The grievance of the petitioner is that he was working for the respondent for

more than three years by that time his services were terminated without assigning any reason to him. After the failure report submitted by the conciliation officer, the matter was referred to the Labour Court for adjudication of the dispute. The Labour Court accepted the claim of the petitioner and also that the respondent had terminated his services. However, so far as the claim of backwages is concerned, the Court granted retrenchment compensation for the period from 1992 to 1999 by awarding the last drawn salary at the rate of Rs.3500/- per month.

4. The learned Counsel for the petitioner submitted that no reasons have been assigned by the Tribunal while coming to the conclusion that the company had stopped functioning. He further submitted that the burden of proving that the company had stopped functioning was on the respondent. He submitted that having come to the conclusion that termination of his services was illegal, there was no reason why the consequential relief of reinstatement with backwages could have been denied to the petitioner.

5. The learned Counsel for the respondent pointed out that there is a gross delay of three years in filing the petition after the Award was passed by the Labour Court. It is an admitted position that the petitioner had not produced any material to show that the company was not functioning or that there was a closure of the company during the conciliation proceeding. In the absence of any material to show that the company is still functioning, the Labour Court, in my view, was justified in declining to grant relief of reinstatement with backwages. Further, admittedly there is a delay of three years in filing the present petition. In my view, satisfactory explanation has not been given nor sufficient cause has been shown for condonation of delay. In view of this, there is no reason to interfere with the Award passed by the Labour Court.

. Writ Petition is dismissed in limine.

(V.M. KANADE, J.)